



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions has adopted the following new model criminal jury instructions, effective January 2016.

ADOPTED

The Committee has adopted instructions for use in cases where the defendant is charged with operating facilities for manufacturing controlled substances under MCL 333.7401c. These new instructions are M Crim JI 12.1a, 12.1b and 12.1c.

M Crim JI 12.1a Owning, Possessing or Using Vehicles, Buildings, Structures or Areas Used for Manufacturing Controlled Substances

(1) The defendant is charged with the crime of owning, possessing, or using [a vehicle / a building / a structure / an area / a place] as a location for manufacturing [*identify controlled substance*]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [owned / possessed / used] [*describe property*], [a vehicle / a building / a structure / an area / a place].

(3) Second, that the property was used to manufacture [*identify controlled substance*].¹

(4) Third, that the defendant knew or had reason to know that the [vehicle / building / structure / area / place] was used to manufacture [*identify controlled substance*].

[*Select that which has been charged:*]²

(5) Fourth, that a person less than 18 years old was present at the time.³

(6) Fourth, that hazardous waste⁴ was [generated / treated / stored / disposed].⁵

(7) Fourth, that the violation occurred within 500 feet of [a residence / a business / a church⁶ / school property⁷].⁸

(8) Fourth, that the alleged violation involved the [possession / placement / use] of a [firearm / device designed or intended to injure a person].⁹

(9) Fourth, that the controlled substance was methamphetamine.¹⁰

Use Note

¹ The jury may be instructed on the definition of “manufacture,” which can be found in MCL 333.7401c(7)(c).

² Knowingly owning, possessing, or using the described property is a 10-year offense. MCL 333.7401c(2)(a). Various aggravating factors increase the maximum term of imprisonment. *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), requires that factors that increase a maximum sentence be charged and proved beyond a reasonable doubt. If there are multiple aggravating factors, they will be charged in separate counts. Where applicable, provide the appropriate instruction for the charged offense in each count.

³ MCL 333.7401c(2)(b).

⁴ If appropriate, the jury should be instructed on the definition of “hazardous waste,” as provided in MCL 333.7401c(7)(a), which incorporates the definition found in MCL 324.11103.

⁵ MCL 333.7401c(2)(c).

⁶ The statute references “or other house of worship” in MCL 333.7401c(2)(d); appropriate terminology may be substituted.

⁷ MCL 333.7401c(7)(f) incorporates MCL 333.7410 for the definition of “school property.”

⁸ MCL 333.7401c(2)(d).

⁹ MCL 333.7401c(2)(e).

¹⁰ MCL 333.7401c(2)(f).

History

Adopted January 2016.

Reference

MCL 333.7401c.

M Crim JI 12.1b Owning or Possessing Chemicals or Laboratory Equipment for Manufacturing Controlled Substances

(1) The defendant is charged with the crime of owning or possessing [chemicals / laboratory equipment] for use in manufacturing [*identify controlled substance*]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [owned / possessed] [a chemical / laboratory equipment¹].

(3) Second, that the defendant knew or had reason to know that the [chemical / laboratory equipment] was going to be used to manufacture [*identify controlled substance*].²

[*Select that which has been charged.*]³

- (4) Third, that a person less than 18 years old was present at the time.⁴
- (5) Third, that hazardous waste⁵ was [generated / treated / stored / disposed].⁶
- (6) Third, that the violation occurred within 500 feet of [a residence / a business / a church⁷ / school property⁸].⁹
- (7) Third, that the alleged violation involved the [possession / placement / use] of a [firearm / device designed or intended to injure a person].¹⁰
- (8) Third, that the controlled substance was methamphetamine.¹¹

Use Note

¹ “Laboratory equipment” is defined in MCL 333.7401c(7)(b).

² The jury may be instructed on the definition of “manufacture,” which may be found in MCL 333.7401c(7)(c).

³ Knowingly owning or possessing the described chemicals or equipment is a 10-year offense. MCL 333.7401c(2)(a). Various aggravating factors increase the maximum term of imprisonment. *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), requires that factors that increase a maximum sentence be charged and proved beyond a reasonable doubt. If there are multiple aggravating factors, they will be charged in separate counts. Where applicable, provide the appropriate instruction for the charged offense in each count.

⁴ MCL 333.7401c(2)(b).

⁵ If appropriate, the jury should be instructed on the definition of “hazardous waste,” as provided in MCL 333.7401c(7)(a), which incorporates the definition found in MCL 324.11103.

⁶ MCL 333.7401c(2)(c).

⁷ The statute references “or other house of worship” in MCL 333.7401c(2)(d); appropriate terminology may be substituted.

⁸ MCL 333.7401c(7)(f) incorporates MCL 333.7410 for the definition of “school property.”

⁹ MCL 333.7401c(2)(d).

¹⁰ MCL 333.7401c(2)(e).

¹¹ MCL 333.7401c(2)(f).

History

Adopted January 2016.

Reference

MCL 333.7401c.

M Crim JI 12.1c Providing Chemicals or Laboratory Equipment for Manufacturing Controlled Substances

(1) The defendant is charged with the crime of providing [chemicals / laboratory equipment] to another person for use in manufacturing [*identify controlled substance*]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant provided [a chemical / laboratory equipment¹] to another person.

(3) Second, that the defendant knew or had reason to know that the [chemical / laboratory equipment] was going to be used to manufacture [*identify controlled substance*].²

[*Select that which has been charged:*]³

(4) Third, that a person less than 18 years old was present at the time.⁴

(5) Third, that hazardous waste⁵ was [generated / treated / stored / disposed].⁶

(6) Third, that the violation occurred within 500 feet of [a residence / a business / a church⁷ / school property⁸].⁹

(7) Third, that the alleged violation involved the [possession / placement / use] of a [firearm / device designed or intended to injure a person].¹⁰

(8) Third, that the controlled substance was methamphetamine.¹¹

Use Note

¹ “Laboratory equipment” is defined in MCL 333.7401c(7)(b).

² The jury may be instructed on the definition of “manufacture,” which may be found in MCL 333.7401c(7)(c).

³ Providing the described chemicals or equipment is a 10-year offense. MCL 333.7401c(2)(a). Various aggravating factors increase the maximum term of imprisonment. *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), requires that factors that increase a maximum sentence be charged and proved beyond a reasonable doubt. If there are multiple aggravating factors, they will be charged in separate counts. Where applicable, provide the appropriate instruction for the charged offense in each count.

⁴ MCL 333.7401c(2)(b).

⁵ If appropriate, the jury should be instructed on the definition of “hazardous waste,” as provided in MCL 333.7401c(7)(a), which incorporates the definition found in MCL 324.11103.

⁶ MCL 333.7401c(2)(c).

⁷ The statute references “or other house of worship” in MCL 333.7401c(2)(d); appropriate terminology may be substituted.

⁸ MCL 333.7401c(7)(f) incorporates MCL 333.7410 for the definition of “school property.”

⁹ MCL 333.7401c(2)(d).

¹⁰ MCL 333.7401c(2)(e).

¹¹ MCL 333.7401c(2)(f).

History

Adopted January 2016.

Reference

MCL 333.7401c.